

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**HABITAT EDUCATION CENTER,
DAVID ZABER,
RICARDO JOMARRON,
DON WALLER,
MARK LEACH, and
ENVIRONMENTAL LAW AND POLICY CENTER,**

Plaintiffs,

v.

Case No. 08-C-627

**UNITED STATES FOREST SERVICE,
GAIL R. KIMBELL, *Chief of the US Forest Service,*
ED SCHAFER, *Secretary of the US Dept of Agriculture,* and
KENT P. CONNAUGHTON, *Regional Forester for US Forest Service Eastern
Region,***

Defendants.

ORDER DENYING MOTION FOR RECONSIDERATION

On January 13, 2009, this court granted plaintiffs' motion for a preliminary injunction and enjoined the defendants from certain activities until this court issues a final order and judgment on the merits. As a condition of the preliminary injunction, the court ordered that the plaintiffs post a security bond in the amount of \$10,000. The reasons for requiring a bond were set forth in the court's order.

The plaintiffs are now asking that the court reconsider its order and vacate the requirement of posting a security bond. Plaintiffs argue that district courts have discretion to waive the requirement for a security, which is often done when plaintiffs are litigating in the

public interest. The plaintiffs submit that requiring a security will hinder the enforcement of this country's environmental laws by discouraging public interest entities from filing lawsuits.

In their motion for reconsideration, the plaintiffs raise no new arguments; they simply want the court to change its mind. While this court recognizes the policy underlying the waiver of the posting of a security in public interest environmental cases, this case is unique. As noted in the court's previous order, this case presents a very discrete factual issue that must be resolved in the plaintiffs' favor, before they are even able to proceed with their challenge to the defendants' actions. In addition, the defendants were able to demonstrate that, under the attendant circumstances, the Forest Service may incur financial harm.

After balancing the equities and circumstances involved, this court views this case as different than what might be characterized as the "normal" public interest environmental case. The court does not believe that by requiring a security bond in this case, these plaintiffs or other public interest litigants will be deterred from commencing future litigation.

Accordingly, at this stage of the proceedings, the court denies the plaintiffs' motion for reconsideration.

SO ORDERED.

Dated at Milwaukee, Wisconsin, this 3rd day of February, 2009.

s/AARON E. GOODSTEIN
U.S. MAGISTRATE JUDGE